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EXAMINER

SALCE, JASON P

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2611

DATE MAILED: 08/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/991,807

Applicant(s)

DUDKIEWICZ ET AL.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

Claims 1-10 and 21-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 and 21 only provides receiving data and storing the data after being analyzed, no physical medium is provided for implementing this method. All dependent claims related to independent claims 1 and 21 further define the data being stored (as discussed above).

To expedite a complete examination of the instant application the claims rejected under 35 U.S.C 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5-6, 10-12, 15-16, 20-22, 25-28 and 31-32 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Killian (U.S. Patent No. 6,163,316).

Referring to claim 1, Killian discloses receiving data corresponding to the programming event (see Column 4, Lines 7-10), the data including descriptive information and timing information (see Column 3, Lines 59-67 and Column 4, Lines 1-6 for a description of the data stored at a database, that can be accessed by a viewer over the Internet).

Killian also discloses analyzing the received data for the programming event to determine numerical goodness of fit scores corresponding to categories of a classification hierarchy (see viewer profile 84 in combination with the suggestion module 76 for analyzing the programming event data to determine preference programming at Column 11, Lines 22-31). Note that if one program is displayed in a shaded form, this represents a higher interest, therefore one program is determined to be more interesting than the other, which represents a hierarchy structure of the programming data displayed.

Killian also discloses analyzing the received data to determine keywords associated with the programming event (see Column 9, Lines 43-67 for using a keyword template that allows the user to determine keywords associated with a programming event for filtering purposes).

Killian also discloses storing the numerical goodness of fit scores and keywords for the programming event in association with time data and descriptive data for the programming event as the metadata describing the programming event (see Column 8,

Lines 49-52 for analyzing timing and descriptive EPG data, Column 10, Lines 51-60 for storing the keyword analysis data, and Column 15, Lines 35-38 for storing the best fit score preference data).

Referring to claim 2, Killian discloses determining scores for keywords at Column 10, Lines 25-36.

Referring to claim 5, Killian discloses program descriptive data (see Column 3, Lines 59-67 and Column 4, Lines 1-6).

Referring to claim 6, Killian discloses production data (see "list of actors for the program" at Column 3, Line 63).

Referring to claim 10, Killian would have to inherently store a predetermined number of keywords, because the memory at the receiver can only hold a certain amount of data.

Referring to claims 11-12, 15-16 and 20, see rejection of claims 1-2, 5-6 and 20, respectively.

Referring to claim 21, Killian discloses determining candidate keywords from descriptive data associated with the programming event (see Column 9, Lines 34 for providing a user with a preference template to determine candidate keywords from descriptive data relating to the programming event, such as genre or sports templates).

Killian also discloses providing the candidate keywords as respective inputs to a classification tool configured to generate numerical goodness of fit scores corresponding to categories of a classification hierarchy (see Column 9, Lines 43-57 for

providing the keywords such as heart-warming and romantic and that these keywords can be ranked at Column 10, Lines 1-3).

Killian also discloses selecting keywords from among said candidate keywords based on the numerical goodness of fit scores corresponding to the categories of the classification hierarchy for each of said candidate keywords (see Column 10, Lines 51-55 for generating a viewer profile based on the templates, which contains the ranking scores); and

Killian also discloses storing the selected keywords as a component of said metadata describing the programming event (see Column 10, Lines 55-60).

Referring to claim 22, Killian discloses that the candidate keywords comprise verbs and nouns of descriptive data (see "drama" and "romance" at Column 9, Lines 45-46).

Referring to claim 25, Killian discloses a highest numerical goodness of fit score (see "10" ranking at Column 10, Lines 24-28).

Referring to claim 26, Killian inherently discloses storing a predetermined number of keywords because a memory can only hold a certain amount of data.

Referring to claims 27-28 and 31-32, see rejection of claims 21-22 and 25-26, respectively.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4, 23-24 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian in view of Lawler (U.S. Patent No. 5,758,259).

Referring to claim 3, Killian discloses all the limitations in claim 2, but fails to teach determining a subset of keywords according to a thresholding procedure and storing this data. Lawler discloses determining a representative subset of said determined keywords by a thresholding procedure using said keyword goodness of fit scores (see Column 9, Lines 53-57). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the keyword determination method, as taught by Killian, using the thresholding method, as taught by Lawler, for the purpose of reducing the programming information a viewer must consider to identify appropriate programming selections (see Column 2, Lines 35-37 of Lawler).

Referring to claim 4, see rejection of claim 3, and note that Lawler's Table 2 relates the keywords with a goodness of fit score, and therefore is a subset of keywords is determined, it's associated goodness of fit score is also determined.

Referring to claim 23, Killian discloses all of the limitations in claim 21, but fails to disclose a correlation method for determining which keywords should be kept or discarded. Lawler discloses using such a method to determine preferred programming to a user (Column 9, Lines 50-62). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the keyword determination method, as taught by Killian, using the correlation method, as taught by Lawler, for the

purpose of reducing the programming information a viewer must consider to identify appropriate programming selections (see Column 2, Lines 35-37 of Lawler).

Referring to claim 24, see rejection of claims 3 and 23.

Referring to claims 29-30, see rejection of claims 23-24, respectively.

5. Claims 7-9 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian in view of Hullinger et al. (U.S. Patent No. 6,295,092).

Referring to claim 7, Killian discloses all of the limitations in claim 7, but fails to teach determining a time and duration of individual segments of a program described by the production data and generating metadata regarding those segments. Hullinger discloses breaking a television broadcast into segments, which can later be accessed by referencing the average story length (Column 3, Lines 15-31 and Column 4, Lines 44-56) and generating metadata (charts) regarding the segments (see Figures 11-13 and Column 11, Lines 6-35).

Claim 8 corresponds to claim 7, with the additional limitation of processing the production data to conform to a standard delimited format (see Table I of Hullinger).

Claim 9 corresponds to claim 7, with the additional limitation of the received data further comprising program descriptive data describing the program (see Table II of Hullinger and Table 2 of Lawler).

Referring to claims 17-19, see rejection of claims 7-9, respectively.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

July 28, 2003

  
ANDREW FAILE  
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